

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ROBERT W. FERRELL : CASE NO. C-1-02-190
Plaintiff, : Magistrate Judge Black
v. :
LAKOTA SCHOOL DISTRICT aka :
LAKOTA LOCAL SCHOOL DISTRICT :
Defendant.

[Proposed] INTERROGATORIES TO THE JURY

1. Has plaintiff Robert Ferrell proven by the greater weight of the evidence that his age was a determining factor in Defendant's assignment of his bus route? Please circle your answer in ink.

Yes

No

Please continue to Interrogatory No. 2.

2. Has plaintiff Robert Ferrell proven by the greater weight of the evidence that his sex was a determining factor in Defendant's assignment of his bus route? Please circle your answer in ink.

Yes

No

If your answers to both Interrogatory No. 1 and Interrogatory No. 2 are "no," please skip to Interrogatory No. 6 and do not answer Interrogatory No. 3 though Interrogatory No. 5. If your answer to either Interrogatory No. 1 or Interrogatory No. 2 is "yes," please continue to Interrogatory No. 3.

3. Has plaintiff Robert Ferrell proven by the greater weight of the evidence that the assignment of a bus route to him on or about August 11, 2001, was an adverse employment action? Please circle your answer in ink.

Yes

No

If your answer to Interrogatory No. 3 is "no," please skip to Interrogatory No. 6 and do not answer Interrogatory No. 4 and Interrogatory No. 5. If your answer to Interrogatory No. 3 is "yes," please continue to Interrogatory No. 4.

4. Has the defendant stated a non-discriminatory reason for assigning the bus routes in the manner it did on August 11, 2001? Please circle your answer in ink.

Yes

No

If your answer to Interrogatory No. 4 is "no," please skip to Interrogatory No. 6 and do not answer Interrogatory No. 5. If your answer to Interrogatory No. 4. Is "yes," please continue to Interrogatory No. 5.

5. Has the plaintiff shown by the greater weight of the evidence that defendant's stated reason for assigning the bus routes in the manner it did on August 11, 2001, was false or pre-textual? Please circle your answer in ink.

Yes

No

Please continue to Interrogatory No. 6.

6. Has the plaintiff shown by the greater weight of the evidence that he was engaged in a protected activity when he asked defendant's management why he was not permitted to select a bus route based on his seniority as a substitute bus driver? Please circle your answer in ink.

Yes

No

If your answer to Interrogatory No. 6 is "no," please skip to Interrogatory No. 13 and do not answer Interrogatory Nos. 7 through 12. If your answer to Interrogatory No. 6 is "yes," please continue to Interrogatory No. 7.

7. Has the plaintiff shown by the greater weight of the evidence that he was subjected to an adverse employment action and fired from his job by defendant? Please circle your answer in ink.

Yes

No

If your answer to Interrogatory No. 7 is "no," please skip to Interrogatory No. 13 and do not answer Interrogatory Nos. 8 through 12. If your answer to Interrogatory No. 7 is "yes," please continue to Interrogatory No. 8.

8. Has the plaintiff shown by the greater weight of the evidence that he would not have been subject to this adverse employment action but for having engaged in the protected activity? Please circle your answer in ink.

Yes

No

If your answer to Interrogatory No. 8 is "no," please skip to Interrogatory No. 13 and do not answer Interrogatory Nos. 9 through 12. If your answer to Interrogatory No. 8 is "yes," please continue to Interrogatory No. 9.

9. Please answer Interrogatory No. 9 through Interrogatory No. 12 only if you have answered "yes" to either Interrogatory No. 5 or Interrogatory No. 8.

What amount of damages, if any, has plaintiff Robert Ferrell sustained as a proximate result of defendant's discriminatory conduct?

- A. Back pay less other earned income _____
- B. Compensatory damages for emotional distress and mental anguish_____

Please continue to Interrogatory No. 10.

10. Did plaintiff Robert Ferrell fail to mitigate his damages? Please circle your answer in ink.

Yes

No

If your answer to Interrogatory No. 10 is "no," please continue to Interrogatory No. 11. If your answer to Interrogatory No. 10 is "yes," please skip to Interrogatory No. 13 and do not answer Interrogatory No. 11 and Interrogatory No. 12.

11. What amount should be deducted from his recovery as an offset for plaintiff's failure to mitigate his damages?

Please continue to Interrogatory No. 12.

12. What is your calculation of plaintiff's total discrimination damages (Interrogatory No. 9.A. plus 9.B. minus Interrogatory 11.)

Please continue to Interrogatory No. 13.

13. Has plaintiff Robert Ferrell proven by the greater weight of the evidence that an employee of Lakota School District **battered/assaulted [Defendant asserts that plaintiff has only pleaded battery, not assault.]** him on or about August 11, 2001? Please circle your answer in ink.

Yes

No

If your answer to Interrogatory No. 13 is "no," please do not answer any further interrogatories. If your answer to Interrogatory No. 13 is "yes," please continue to Interrogatory No.14.

14. Has plaintiff Robert Ferrell proven by the greater weight of the evidence that the assault proximately resulted in an injury to him? Please circle your answer in ink.

Yes

No

If your answer to Interrogatory No. 14 is "no," please do not answer any further interrogatories. If your answer to Interrogatory No. 14 is "yes," please continue to Interrogatory No. 15.

15. What amount of compensatory damages, if any, has plaintiff Robert Ferrell sustained as a proximate result of defendant's assault?

[Defendant disputes that any interrogatories concerning punitive damages should be given to the jury because plaintiff did not make any demand for punitive damages in his pleadings.]

16. Did a management employee of defendant Lakota School District act with malice or reckless indifference to plaintiff's rights? Please circle your answer in ink.

Yes

No

If your answer to Interrogatory No. 16 is "no," please do not answer any more interrogatories. If your answer to Interrogatory No. 16 is "yes," please continue to Interrogatory No. 17.

17. Has Defendant Lakota School District acted in good faith in an attempt to comply with the law by adopting policies and procedures designed to prohibit discrimination in the workplace? Please circle your answer in ink.

Yes

No

If your answer to Interrogatory No. 17 is "no," please continue to Interrogatory No. 18. If your answer to Interrogatory No. 17 is "yes," please do not answer any further interrogatories.

18. What amount, if any, of punitive damages should be awarded against Defendant Lakota School District?

Each juror must sign below attesting that the answers given to each of the foregoing interrogatories is his or her answer. After completing this form and the verdict forms report to the Court that you have completed your deliberations.

JUROR

JUROR

JUROR

JUROR

JUROR

JUROR

s/ Richard L. Hurchanik
RICHARD L. HURCHANIK (0016361)
110 North Third Street
Hamilton, Ohio 45011
Tel.: 513/867-1717
Fax : 513/895-4422
Trial attorney for plaintiff Robert W. Ferrell

s/ Thomas M. Green
THOMAS M. GREEN (0016361)
GREEN & GREEN, Lawyers
800 Performance Place
109 North Main Street
Dayton, Ohio 45402-1290
Tel.: 937/ 224-3333
Fax : 937/ 224-4311
tmgreen@green-law.com
Trial attorney for defendant Lakota School
District aka Lakota Local School District